

**DATE:** November 13, 2023

**TO:** Rental Housing Committee

**FROM:** Patricia Black, Senior Management Analyst  
Joann Pham, Analyst I  
Anky van Deursen, Division Manager

**SUBJECT:** Annual Update on the Petition Program

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**RECOMMENDATION**

Provide the Rental Housing Committee with an annual informational update on the Petition Program, including a summary of the petitions processed through Fiscal Year 2022-23 as well as related administrative processes pursuant to the Community Stabilization and Fair Rent Act and the Mobile Home Rent Stabilization Ordinance.

**BACKGROUND**

After the Community Stabilization and Fair Rent Act (CSFRA) was passed, City staff performed extensive policy research of, and held discussions with, rent stabilization jurisdictions throughout the region and state to analyze and determine best practices related to hearing and petition administration process, including the hiring and oversight of Hearing Officers. Staff presented this information, along with regulations for the Hearing and Petition Processes (CSFRA Chapters 5, 6, and 7) and provided recommendations for the Rental Housing Committee's (RHC) consideration during the June 8, 2017 RHC meeting. On July 24, 2017, the RHC adopted regulations governing the petition and hearing processes and the fair return standard of individual rent adjustment petitions under the CSFRA.

The Rent Stabilization Division began accepting petitions for individual adjustments of rent in November 2017, and the first petition hearing overseen by a Hearing Officer occurred in January 2018. Petition process and hearing administration-related activities were established as quickly as possible to fully implement the CSFRA. As the CSFRA Rules and Regulations were adopted and refined, Hearing Officers were routinely provided updates, especially when the changes were related to petitions in the hearing process.

Additionally, the RHC was tasked with implementing the Mobile Home Rent Stabilization Ordinance (MHRSO) on behalf of the City Council in October 2021. Rent Stabilization Division

staff began administering the MHRSO, which allows mobile home tenants, mobile home landlords, as well as mobile home park owners to petition the City for adjustments in rent through a petition process. The Rent Stabilization Division has implemented this process as outlined in the MHRSO Rules and Regulations.

As part of the administration of the Petition Program, staff provides quarterly data reports which include a graphical overview of petition statuses. This overview shows all petitions received to date as well as a more in-depth review of the current fiscal year and is presented during RHC meetings. To further supplement their knowledge and understanding of the program, the RHC requested annual updates on the petition process. The last petition overview was provided in Fiscal Year 2022-23 during the December 19, 2022 RHC meeting (see Attachment 1) and covered petitions received by the Petition Program through November 2022.

## **ANALYSIS**

The petition and hearing process is crucial to administering and implementing the CSFRA and MHRSO. The CSFRA and MHRSO require the City to provide landlords and tenants of rent-stabilized units and spaces a way to request upward or downward adjustments of rent through a petition process. Landlords and tenants requesting an adjustment in rent do so by filing petitions with the City and entering into a formal process.

This process includes filing forms and supporting documentation with the City, meetings, settlement conferences (if requested), hearings overseen and adjudicated by a Hearing Officer, and the issuance of a formal decision by the same Hearing Officer. The process also allows parties to the petition to file appeals with the RHC should they dispute the outcome of the decision.

Petitions vary greatly in type, complexity, number of affected parties, situations, and circumstances. The types of petitions available to landlords and tenants include:

- Landlord-Initiated Petitions:
  - Maintenance of Net Operating Income (MNOI Petition)
  - Specified Capital Improvement Petition
  
- Tenant-Initiated Petitions:
  - Unlawful Rent
  - Failure to Maintain Habitable Premise and/or Reduction in Housing Services
  - Undue Tenant Hardship
  - New or Additional Housing Services Petition

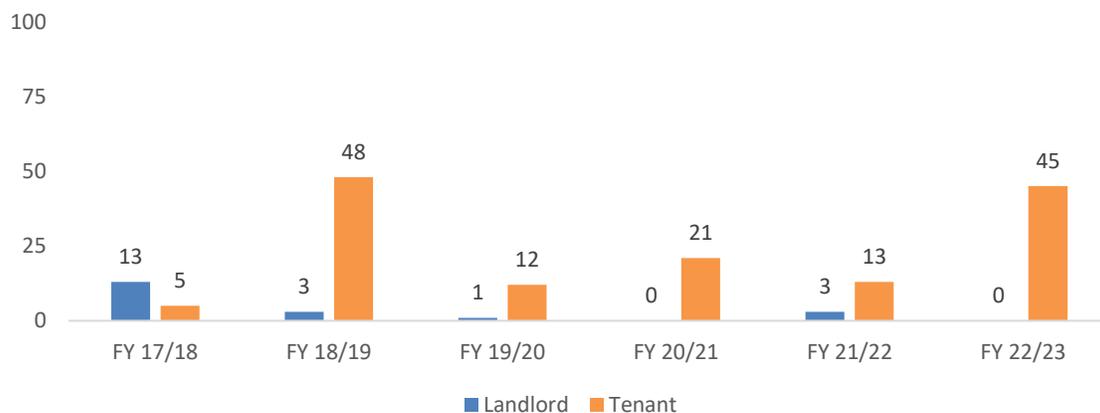
- Other Petitions:
  - Decision Compliance Petition
  - Objection to Exemption of a Unit or Property

### **Petitions Summary**

From November 2017 through June 30, 2023, the Rent Stabilization Division processed a total of 165 petitions<sup>1</sup> (see Figure 1 below).

- One hundred forty-five (145) petitions (88%) were filed by tenants.
- Twenty (20) petitions (12%) were filed by landlords.
- Fifty-two (52) petitions (32%) were filed in Fiscal Year 2018-19, representing the greatest number of petitions filed during any fiscal year.
  - Nineteen (19) petitions filed in Fiscal Year 2018-19 were Undue Tenant Hardship Petitions filed in response to Landlord Petitions.

Petition filings stabilized after Fiscal Year 2018-19 at an average of 16 petitions filed with the program per year. However, in Fiscal Year 2022-23, 45 petitions were filed, including one MHRSO petition.



**Figure 1: CSFRA Petitions Received by the Rent Stabilization Division (Fiscal Year 2017-18 through Fiscal Year 2022-23)**

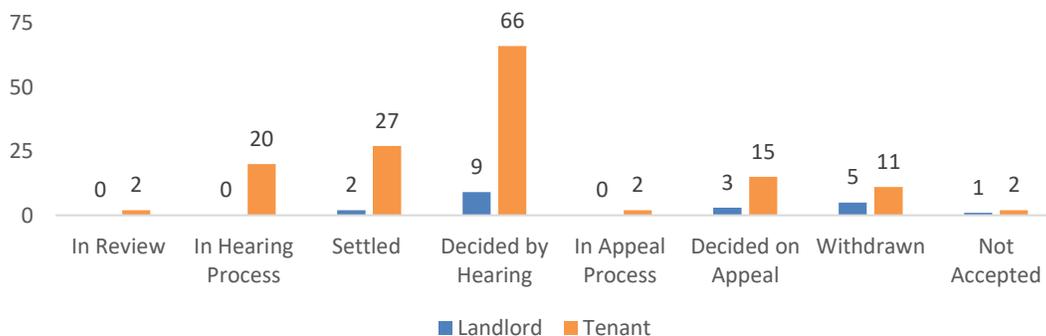
<sup>1</sup> One MHRSO petition was formally filed with the City on November 16, 2022.

Of the 165 petitions filed with the City since November 2017:

- One hundred forty-six (146) petitions (84%) entered the formal hearing process.
- Sixteen (16) petitions (10%) were withdrawn by the petitioner.
- Three petitions (2%) were not accepted.<sup>2</sup>

As of June 30, 2023, of the 146 petitions that had entered into the formal hearing process:

- Twenty-four (16%) petitions were active.
  - Two petitions (1%) were in review.
  - Twenty (20) petitions (14%) were in the hearing process.
  - Two petitions (1%) were in the appeal process.
- One hundred twenty-two (122) petitions (84%) had completed the hearing and/or prehearing settlement conference process (see Figure 2 below and Attachment 2).
  - Twenty-nine (29) petitions (24%) were settled or conciliated.
  - Seventy-five (75) petitions (61%) were decided by hearing.
  - Eighteen (18) petitions (12%) were appealed to the RHC.
- One hundred six (106) petitions (87%) of the individually filed and finalized petitions received judgments in favor of the petitioner or were settled through a mutually determined agreement via the prehearing settlement conference or conciliation.



**Figure 2: Status of Petitions  
 (Fiscal Year 2017-18 through Fiscal Year 2022-23)**

<sup>2</sup> Of the three petitions not accepted, one Landlord Maintenance of Net Operating Income (MNOI) Petition was not accepted by Hearing Officer Order due to extensive, active code violations on the property (CSFRA Section 1710(a)1(B)); one Undue Tenant Hardship Petition was not accepted by Hearing Officer Order due to late filing (CSFRA Regulations Chapter 7(C)1(b)); and one Unlawful Rent Petition filed by a mobile home owner in Fiscal Year 2017-18 was not accepted because the RHC deemed mobile homes were not covered by the CSFRA on February 26, 2018.

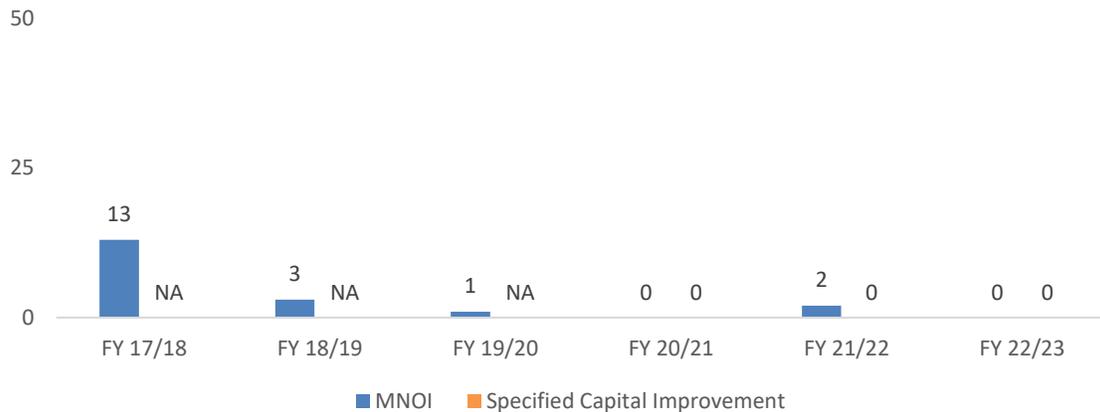
Of the 122 petitions with final outcomes (settled, decided by hearing, or decided on appeal), the average time, inclusive of any reason for delay, is 82 days from petition acceptance to final outcome. The finalized petition data includes time associated with prehearing settlement conferences, hearings, and/or delays due to requests from affected parties or Hearing Officers. Each step requires due process considerations and coordination of schedules between parties.

### **Landlord-Initiated Petitions**

CSFRA and MHRSO regulations allow landlords to file petitions with the City requesting an upward adjustment of rent should they be unable to maintain a fair return on their investment as required under federal law. Landlords may file two types of petitions with the City to request an upward adjustment of rent: Maintenance of Net Operating Income (MNOI) Petition and Specified Capital Improvement Petition.

Nineteen (19) petitions (12%) of the 165 petitions filed with the City since November of 2017 were landlord-initiated:

- MNOI petitions represent all of the upward adjustment of rent petitions filed with the program.
  - Thirteen (13) petitions (68%) entered into the formal hearing process.
  - Five petitions (26%) were withdrawn by the petitioner.
  - One petition (5%) was not accepted.
- Thirteen (13) petitions (84%) have completed the hearing and/or prehearing settlement conference process (see Figure 2 above and Attachment 2).
  - Eight petitions (62%) were decided by hearing.
  - Two petitions (15%) were settled or conciliated.
  - Three petitions (23%) were appealed to the RHC.
- Of the 13 petitions, 12 petitions (92%) of the individually filed and finalized petitions received judgments in favor of the petitioner or were settled through a mutually determined agreement via the prehearing settlement conference or conciliation.



**Figure 3: Landlord-Initiated Petitions Received to Date  
 (Fiscal Year 2017-18 through Fiscal Year 2022-23)**

**Tenant-Initiated Petitions**

CSFRA and MHRSO regulations allow tenants to file petitions with the City requesting a downward adjustment of rent should their landlord be in violation of a section of the CSFRA or MHRSO or if a banked rent increase may pose an undue tenant hardship.

Tenants may file downward adjustment of rent petitions for three reasons:

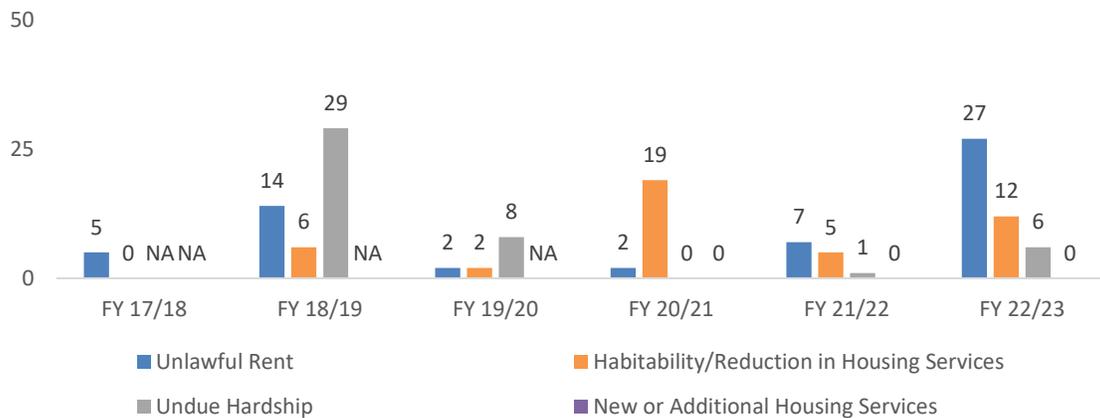
1. Unlawful rent;
2. Failure to maintain habitable premise and/or reduction in housing services; and
3. Undue tenant hardship.

In Fiscal Year 2020-21, the RHC adopted regulations for an additional petition process allowing tenants and landlords to file a New or Additional Housing Services Petition (joint petition) for an increase of rent or one-time payment from tenant to landlord in order to cover, or partially cover, increased costs in defined categories. Tenants must initiate the process.

One-hundred forty-five (145) petitions (88%) of the 165 petitions filed with the City since November of 2017 were tenant-initiated:

- One hundred thirty-two (132) petitions (91%) entered into the formal hearing process:
  - Twenty-four (24) petitions (16%) were active.
    - Two petitions (1%) were in review.
    - Twenty (20) petitions (14%) were in the hearing process.
    - Two petitions (1%) were in the appeal process.

- Eleven (11) petitions (8%) were withdrawn by the petitioner.
- Two petitions (1%) were not accepted.
- One hundred eight (108) petitions (74%) had completed the hearing and/or prehearing settlement conference process (see Figure 2 above and Attachment 2).
  - Sixty-six (66) petitions (61%) were decided by hearing.
  - Twenty-seven (27) petitions (27%) were settled or conciliated.
  - Fifteen (15) petitions (14%) were appealed to the RHC.
- Of the 108 petitions, 94 (87%) of the individually filed and finalized petitions received judgments in favor of the petitioner or were settled through a mutually determined agreement via the prehearing settlement conference or conciliation.

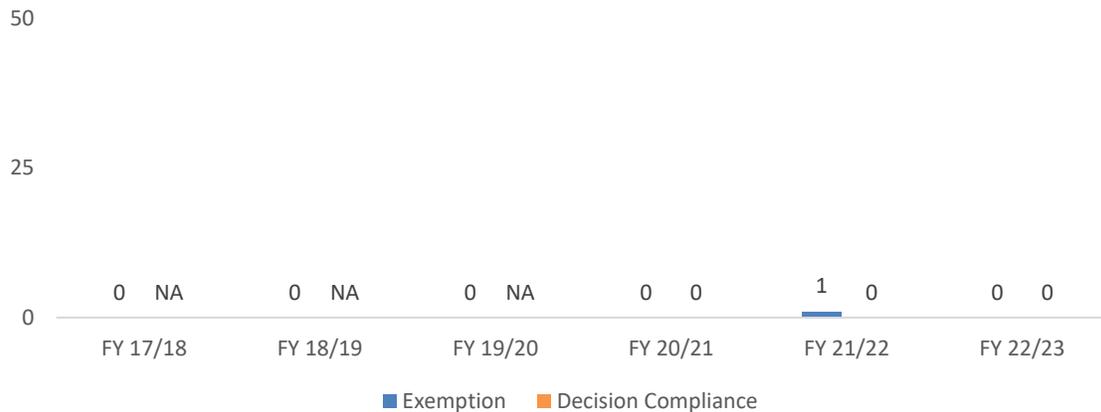


**Figure 4: Tenant-Initiated Petitions Received by Type (Fiscal Year 2017-18 through Fiscal Year 2022-23)**

**Other Petitions**

In Fiscal Year 2021-22, the RHC adopted regulations providing landlords or tenants a process to object to staff’s determination of exemption or nonexemption of a unit. One Exemption Petition has been filed through Fiscal Year 2022-23 by a property owner with the petition request being denied by the Hearing Officer.

In Fiscal Year 2022-23, Decision Compliance Petitions were developed in the event there were ongoing disputes related to compliance with a decision issued by a Hearing Officer. No Decision Compliance Petitions have been filed as of June 30, 2023.



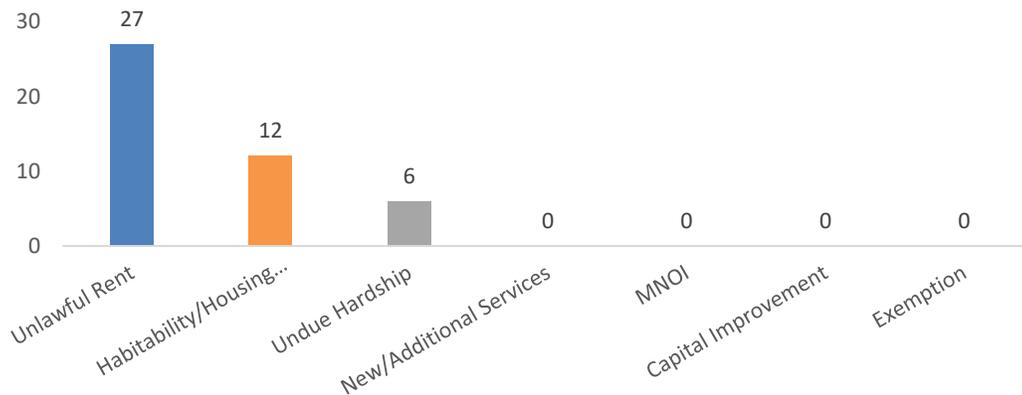
**Figure 5: Other Petitions Received by Type  
 (Fiscal Year 2017-18 through Fiscal Year 2022-23)**

**Petitions Filed in Fiscal Year 2022-23**

The Petition Program experienced a significant increase in tenant petitions during Fiscal Year 2022-23, which correlated with an increase in community awareness of the tenant protections under the CSFRA. The increase in awareness is correlated with the extensive outreach performed by staff through the COVID-19 Eviction Prevention Program. The Eviction Prevention Program fostered a sense of trust in the services provided through the Rent Stabilization Division among community members. This provided tenants with an avenue to address their concerns and access their rights under the CSFRA and MHRSO.

Forty-five (45) petitions were filed in Fiscal Year 2022-23. This is a 181% increase in petition filings compared to Fiscal Year 2021-22.

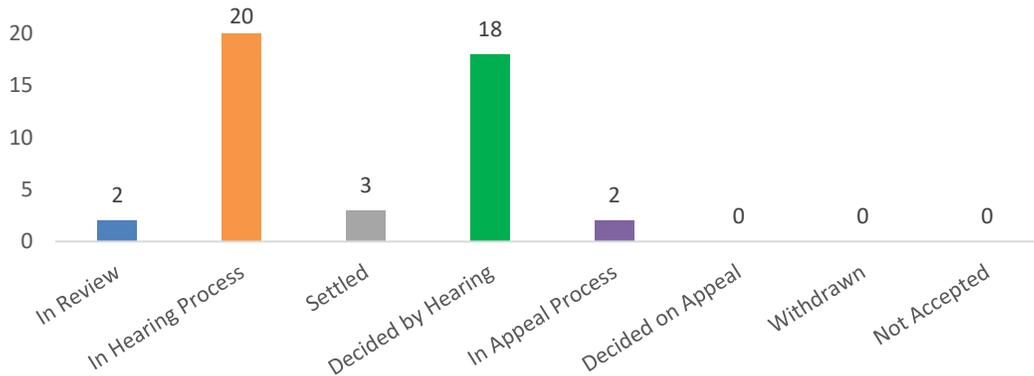
- All petitions in Fiscal Year 2022-23 were filed by tenants (see Figure 6 below):
  - Twenty-seven (27) were for Unlawful Rent (60%).
  - Twelve (12) were for Failure to Maintain Habitable Premise and/or Reduction in Housing Services (27%).
  - Six were for Tenant Hardship (13%).
- No New or Additional Housing Services, MNOI, Specified Capital Improvement, or Exemption Petitions were filed with the City in Fiscal Year 2022-23



**Figure 6: Petitions Received in Fiscal Year 2022-23 by Type**

As of June 30, 2023, out of the 45 petitions filed in Fiscal Year 2022-23:

- Twenty-four (24) petitions (16%) were active:
  - Two petitions (1%) were in review.
  - Twenty (20) petitions (14%) were in the hearing process.
  - Two petitions (1%) were in the appeal process.
- Zero petitions (0%) were withdrawn by the petitioner.
- Zero petitions (0%) were not accepted.
- Twenty-one (21) petitions (47%) had completed the hearing and/or prehearing settlement conference process (see Figure 2 above and Attachment 2).
  - Eighteen (18) petitions (85%) were decided by hearing.
  - Three petitions (14%) were settled or conciliated.
  - Two petitions (10%) were appealed to the RHC.
- Of the 21 petitions, 14 (67%) of the individually filed and finalized petitions received judgments in favor of the petitioner or were settled through a mutually determined agreement via the prehearing settlement conference or conciliation.



**Figure 7: Status of Fiscal Year 2022-23 Petitions as of June 30, 2023**

The increase in the filing of petitions in general also coincided with an increase in the filing of multiple petitions for single units and/or the filing of petitions with multiple issues for single units. For example, multiple units filed both Unlawful Rent and Failure to Maintain Property Petitions. These petitions often contained interrelated issues and consequentially increased the complexity required to analyze and decide the petitions. Additionally, staff has seen an increase in property inspection requests, legal representation of parties, and interpretation and translation needs.

Out of all tenant petitions filed in Fiscal Year 2022-23, 14 (31%), had multiple issues. The trends in multi-issue tenant petition submissions are shown in Table 1 below.

**Table 1: Trends in Multi-Issue Tenant Petition Submissions  
 (Fiscal Year 2021-22 through Fiscal Year 2022-23)**

Fiscal Year	Total Number of Petitions	Percent Filing with Multiple Petitions and/or Complex Issues	Percent of Petitions Requiring Translation and Interpretation
<b>2021-22</b>	16	13% (2 of 16)	19% (3 of 16)
<b>2022-23</b>	45	31% (14 of 45)	33% (15 of 45)

During its October 16, 2023 meeting, the RHC amended the hearing time frames for both the CSFRA and MHRSO (see CSFRA Regulations, Chapter 5, and MHRSO Regulations Chapter 6, both entitled “Hearing Procedures”) in order to better address issues presented by complex petitions.

The trends in both the increasing number of petitions being filed with the City and petitions filed with multiple issues are anticipated to continue in Fiscal Year 2023-24. Staff will continue to perform program modifications throughout Fiscal Year 2023-24 to best assist the community and effectively administer the program, including releasing a combined petition for Unlawful Rent,

Failure to Maintain Habitable Premises, and Reduction in Housing Services or Maintenance issues for tenants, assessing staffing levels, and hiring additional Hearing Officers.

**PUBLIC NOTICING**—Agenda posting.

PB-JP-AVD/KG/6/HSN/RHC

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- Attachments:
1. RHC Memo Dated December 19, 2022
  2. Overview of Petitions Received through Fiscal Year 2022-23